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09/926,694	02/28/2002	Andreas Ulli	5085	3017

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/926,694
Filing Date: February 28, 2002
Appellant(s): ULLI, ANDREAS

Charles W Fallow
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 12, 2005 appealing from the Office action mailed September 8, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The Examiner notes that appellant's claims were finally rejected over alleged admissions by appellant in the specification at page 1, second paragraph taken in view of Groshens '579 (Groshens '800 is no longer relied upon as being substantially cumulative).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 5,827,579	Groshens	10-1998
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:
Claims 8-10, 13 and 14 are rejected under 35 USC 103 as unpatentable over the prior art combination of appellant's admissions in the specification at page 1, second paragraph in view of Groshens '579. More particularly, appellant admits that the structure of a suitable "breathing active textiles for clothing" ' i.e. such as a suitable air-permeable, water impermeable fabric that is coated on one surface with a desired pattern of adhesive dots is known, and the Examiner believes that it is clearly within the skill of the art to coat the opposing opposite surface with a second pattern of adhesive dots. Additionally, it is believed that the subsequent lamination of such a particular double sided adhesive coated fabric to a sheet of a suitable material on each of the article's outer surfaces is also either clearly known or well within the ordinary skill of the

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art. The secondary reference discloses (note particularly the Abstract, Col 1, lines 23-30, lines 36-38, Col 2, line 54-Col 3, line3, Col 3, line 21-Col 4, line 18) the concept of coating a suitable fabric or other chosen layer on both opposing outer surfaces with a suitable adhesive dot pattern on each outer surface that can be aligned in almost any manner desired. Accordingly, one of ordinary skill, motivated by a desire to form a suitable waterproof fabric which further exhibits desirable air breathable properties, would have more than ample motivation to deposit the various coatings of adhesive dots in the "at least partially aligned" discontinuous adhesive patterns present on the opposing outer surfaces of a suitable material such as taught by Groshens and thereby either form, or clearly render obvious the claimed genus of articles. Note for claims 8-10 Groshens teaches that it is often desirable to have the opposing discontinuous patterns directly opposite one another, i.e. mirroring one another, but this is not necessarily required or inherently present, thereby meeting the limitations of dependent claims 13 and 14.

(10) Response to Argument

The Examiner initially notes that appellant appears not to understand the relied upon prior art combination of record, as he appears to focus essentially upon overcoming only the teachings of each of the secondary reference Groshens patents themselves instead of the admission set forth at page 1, second paragraph of the specification taken in view of either of the Groshens patents (only the '579 patent is now relied upon). Additionally, even if the Examiner ignores the fact that all of the various Annexes present in the Declaration of inventor Ulli are present in only German the

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results which appear to be either presented or inferable from the Declaration do not appear to be commensurate in scope with an invention the breadth of appellant's claims, and generally appear to lead to what the Examiner believes to be clearly predictable results, i.e. how the coated and laminated adhesive patterns either block or assist the breathability of the resultant formed fabrics. In summary, the Examiner believes that the **prima facie** case of record has not been rebutted.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Daniel Zirker



**DANIEL ZIRKER
PRIMARY EXAMINER**

Conferees:

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Carol Chaney @